

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS  
LIABILITY LITIGATION

MDL No. 2419

Dkt. No. 1:13-md-2419 (FDS)

THIS DOCUMENT RELATES TO:

All Actions

**PLAINTIFFS' STEERING COMMITTEE'S MOTION FOR ORDER ON FILING  
EXHIBITS WITH SHORT FORM COMPLAINTS**

The Plaintiffs' Steering Committee ("PSC") hereby moves the Court for the entry of the attached order related to a plaintiffs filing exhibits with the short form complaint. Specifically, Tenn. Code Annotated §§ 29-26-121 and 122 require a plaintiff to "file" with a complaint certain documents showing compliance with those provisions. Specifically, Tenn. Code Ann. § 29-26-121(b) states that a complaint must "provide the [pre-suit notice] specified in [Tenn. Code Ann. § 29-26-121(a)(2)]." Generally, a party satisfies this obligation by attaching to the complaint as an exhibit the documentation contemplated by Tenn. Code Ann. § 29-26-121(a). Additionally, Tenn. Code Ann. § 29-26-122(a) states that the "plaintiff or plaintiff's counsel shall file a certificate of good faith with the complaint." Generally, a party satisfies this obligation by attaching the certificate of good faith with the complaint.

Given the number of parties in this litigation the filing, of these exhibits can be administratively burdensome. Accordingly, for those plaintiffs that have previously filed as exhibits to a complaint or amended complaint, the documents contemplated by Tenn. Code Ann. §§ 29-26-121 and 122, the PSC respectfully requests that plaintiffs be permitted to merely reference those exhibits from the previously filed complaints in lieu of physically attaching them

to the short form complaint. The PSC believes that this process comports with the spirit of the short form complaint process.

The PSC reached out to counsel for parties representing the Tennessee Defendants to reach a resolution of this issue, but has not heard back from counsel.<sup>1</sup> Given the looming December 20, 2013 deadline, the PSC respectfully requests that the Court enter the proposed order as soon as practicable.

Date: December 12, 2013

Respectfully submitted:

/s/ J. Gerard Stranch, IV

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<sup>1</sup> See Declaration of Benjamin A. Gastel, attached hereto as Exhibit A, at ¶ 2 and Exhibit A.

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*Plaintiffs' Steering Committee*

**CERTIFICATE OF SERVICE**

I, J. Gerard Stranch, IV, hereby certify that I caused a copy of the foregoing to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Date: December 10, 2013

/s/ J. Gerard Stranch, IV  
J. Gerard Stranch, IV